

**SUPREME COURT OF THE STATE OF NEW YORK - NEW YORK COUNTY**

**PRESENT: Hon. Joan B. Carey  
Administrative Order**

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**RCDOLNER, LLC,**

**Plaintiff,**

**- v -**

**INDEX NO. 109397/2009**

**OLIVER, LLC, 951 LLC, ALEXICO GROUP LLC,  
BANK OF AMERICA, N.A., FCV SEWER &  
WATER INC., MAYRICH CONSTRUCTION  
COMPANY, ACTIVE FIRE SPRINKLER CORP.,  
SEN CONSULTING CORP and "John Doe One"  
through and including "John Doe Ten," the Last  
ten names being fictitious and unknown to  
plaintiff and being intended to designate the  
persons, parties, partnerships or corporations  
if any, having or claiming an interest in or lien  
upon the real property located at 961 First  
Avenue, Borough of Manhattan, County of  
New York, State of New York and identified by  
Tax Map as New York County Block No. 1345,  
Lot No. 29,**

**Defendants.**

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**Administrative Order:**

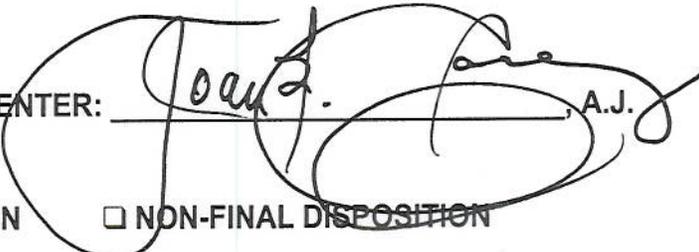
**By letter dated October 16, 2009, counsel for plaintiff requests that this action be transferred from I.A.S. Part 59 (James, J.) to the Commercial Division pursuant to Uniform Rule 202.70.**

**Uniform Rule 202.70(e) provides that an application to transfer an action into the Commercial Division must be made by letter application within 10 days of the party's receipt of a copy of the Request for Judicial Intervention (RJI), thereby putting the party on notice that the filing party has not requested that the case be assigned to the Commercial Division. On September 14, 2009, plaintiff's counsel filed an RJI, marked the action as commercial, and submitted the required statement justifying a Commercial Division designation as required by Uniform Rule 202.70(d). On September 29, 2009, the**

Commercial Division Support Office contacted plaintiff's counsel and informed him that the case had already been assigned to Justice James, because non-party DFC Structures, LLC had filed an RJI on August 20, 2009, marking the action as "Other Matters," in conjunction with its Order to Show Cause to be added as a party. Thus, this case was assigned to a non-commercial Judge. Plaintiff's counsel does not indicate whether plaintiff was served with the RJI filed by DFC Structures, LLC.

Nevertheless, plaintiff's counsel had clear notice on September 29<sup>th</sup>, at the latest, that this case had not been assigned to a justice of the Commercial Division, and had until October 13, 2009 to seek a transfer. The 10-day time limit is strictly construed in order to prevent "judge shopping" and the waste of judicial resources. Accordingly, plaintiff's request is denied.

Dated: October 21, 2009

ENTER:  A.J.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION